

RESOLUTION NO. RS2018-1377 (VERCHER) – This resolution would authorize the Department of Law to settle the claims of Amy Elizabeth Guy against the Metropolitan Government in the amount of \$115,000.

Ms. Guy, a pre-trial detainee, alleges that on September 11, 2013, a corrections officer pepper sprayed her. The officer has testified that Ms. Guy appeared to be turning on her, whereas Ms. Guy maintains that she was merely turning around to ask the officer a question when she was sprayed. Ms. Guy further alleges that Metro failed to properly decontaminate her after she was pepper sprayed, prolonging the burning and discomfort she experienced. The Metro Health Department contracts with Correct Care Solutions, LLC (CCS) to provide healthcare services to inmates and pre-trial detainees in Davidson County corrections facilities. A CCS nurse failed to flush Ms. Guy's eyes following the pepper spraying and improperly instructed Ms. Guy not to wash for 24 hours. Fortunately, Ms. Guy sustained no permanent injuries following the failure to decontaminate her.

Ms. Guy has pursued a 42 U.S.C. § 1983 civil rights lawsuit against Metro and the officer, as well as an allegation that her rights were violated under the Fourth Amendment due to use of excessive force and wrongful prosecution. She has filed a companion case in state court alleging battery, negligence, and malicious prosecution. She also alleges that Metro has an unconstitutional policy of using chemical agents by correctional officers and that the officer in question was improperly trained. She has agreed to accept a total of \$115,000 in full settlement of this case.

It is possible that Metro could incur significant attorney fees and defense costs if this case were to proceed to trial. Pursuant to Tenn. Code Ann. § 8-8-302, Metro could face vicarious liability for the officer's conduct up to the amount of the Sheriff's bond, which is \$100,000. Liability would attach even if Metro is entitled to immunity under the Governmental Tort Liability Act. Defense costs will also be incurred for expert witness services, and total defense costs are estimated to exceed \$100,000 if the matter proceeds to trial. The Department of Law recommends settlement of this claim for \$115,000. CCS has agreed to reimburse Metro in the amount of \$38,000, approximately one third of the total, after the finalization of this settlement.

There was no disciplinary action taken against the Metro corrections officer, who is now retired.

Fiscal Note: This \$115,000 settlement would be the first payment from the Judgments and Losses Fund in FY19. The fund balance would be \$1,998,590 after this payment.